REMARKS

INTRODUCTION:

In accordance with the foregoing, claims 2 and 22 have been canceled without prejudice or disclaimer, claims 1, 11, and 18 have been amended, and claims 25 and 26 have been added. No new matter is being presented, and approval and entry are respectfully requested.

Claims 1, 3-21, and 23-26 are pending and under consideration.

In the subject Office Action, the Examiner failed to cite any grounds of rejection for claims 8-10. Accordingly, Applicant respectfully submits that subsequent Office Action rejecting claims 8-10 cannot properly be made final.

REJECTION UNDER 35 U.S.C. §102

In the Office Action, at page 2, item 2, the Examiner rejected claims 18 and 19 under 35 U.S.C. §102 (b) as being anticipated by Dean, (US 2,696,775 – hereinafter Dean). The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicant traverses this rejection and respectfully requests reconsideration.

Applicant respectfully submits that the subject matter of claim 22 has been incorporated into independent claim 18.

Amended, independent claim 18 recites: "...a sensor to determine whether there is food in the cooking cavity...."

Dean discloses devices for cooking and then chilling and freezing liquid or solid foodstuffs. (See Dean, at col. 1, lines 15-23).

Applicant respectfully submits that Dean neither discloses nor suggests a sensor to determine whether there is food in a cooking cavity.

REJECTION UNDER 35 U.S.C. §103

In the Office Action, at page 2, item 4, the Examiner rejected claims 1, 3-6, 11, 12, 14-20, and 22 under 35 U.S.C. §103(a) as being unpatentable over Filipowski (U.S. Patent No. 4,884,626 – hereinafter Filipowski) in view of Dean. The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicant traverses this rejection and respectfully requests reconsideration.

In the Office Action, at page 3, item 5, the Examiner rejected claims 2, 7, 13, and 23 as

being unpatentable over Filipowski, in view of Dean, as applied to claim 1, 3-6, 11, 12, 14-20, and 22 and further in view of Bradshaw (U.S. Patent No. 2,696,775 - hereinafter Bradshaw). The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicant traverses this rejection and respectfully requests reconsideration.

In the Office Action, at page 4, item 6, the Examiner rejected claim 24 as being unpatentable over Filipowski, in view of Dean, as applied to claim 1, 3-6, 11, 12, 14-20, and 22 and further in view of Fukada et al., (U.S. Patent No. 3,470,942 - hereinafter Fukada). The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicant traverses this rejection and respectfully requests reconsideration.

In the Office Action, at page 5, item 7, the Examiner rejected claim 21 as being unpatentable over Filipowski, in view of Dean, as applied to claim 1, 3-6, 11, 12, 14-20, and 22 and further in view of Bellassai et al., (U.S. Publication No. 2003/0213792 - hereinafter Bellassai). The reasons for the rejection are set forth in the Office Action and therefore not repeated. Applicant traverses this rejection and respectfully requests reconsideration.

Applicant respectfully submits that the subject matter of claim 2 has been incorporated into independent claim 1.

Amended, independent claim 1 recites: "...wherein the cold storage mode is implemented so that a vacuum level of the cooking cavity is adjusted to control the temperature of the cooking cavity in the cold storage mode."

In rejecting claims 2, 7, 13, and 23, the Examiner relies on the combination of Filipowski, Dean, and Bradshaw. Applicant respectfully submits that one of ordinary skill in the art would not be motivated to combine the teachings of Filipowski, Dean, and Bradshaw because Bradshaw is non-analogous art.

The determination that a reference is from a non-analogous art is twofold. First, it is determined whether the reference is within the field of the inventor's endeavor. If it is not, it is determined whether the reference is reasonably pertinent to the particular problem with which the inventor was involved. (See In re Wood, 202 USPQ 171, at 174 (C.C.P.A. 1979)).

Further, it is necessary "to consider 'the reality of the circumstances'... - in other words, common sense - in deciding in which fields a person of ordinary skill would reasonably be expected to look for a solution to the problem facing the inventor. (In re Oetiker, 24 USPQ 2d 1443, 1446 (Fed. Cir. 1992)).

The field of the inventor's endeavor in the subject application is "a vacuum cooking

apparatus and a cooking method using the vacuum cooking apparatus, and more particularly,...a vacuum cooking apparatus and cooking method using the vacuum cooking apparatus, which perform cold storage, thawing, cooking, and warming functions." (Paragraph 2 of the subject Specification).

But the very narrow field of Bradshaw is industrial preparation of farinaceous foodstuff articles. Bradshaw states that the invention "...relates to the rapid cooling of moisture containing farinaceous foodstuff articles, such as bread, piecrusts and the like, using reduced pressure techniques. The invention further relates to the production of a completely baked moisture-containing farinaceous foodstuff article, which makes use of a reduced pressure technique." (Bradshaw, col. 1, lines 15-22).

Applicant respectfully submits that Bradshaw is not within the field of the subject inventor's endeavor.

The particular problem with which the inventor was involved was that in conventional cooking devices, a user must move food stored in a refrigerator into the cooking device immediately before the cooking starts, and that the user must move cooked food into the refrigerator to store the cooked food in the refrigerator. Additionally, with conventional cooking devices, the user must wait for a long time in the case of food requiring a long time to cook. (See Paragraphs 14 and 15 of the subject Specification).

Accordingly, the claimed invention of the subject application involves a vacuum cooking apparatus and cooking method using the vacuum cooking apparatus, which automatically performs cold storage, thawing, cooking and warming functions in a single cooking apparatus, thus increasing cooking convenience. The vacuum cooking apparatus and cooking methods also automatically perform a delayed cooking operation at a predetermined time, and thus, a user does not have to wait for a long time to perform cooking requiring a long time. (Paragraph 16 of the subject Specification).

In contrast, the teachings of Bradshaw are very narrowly tailored. Bradshaw recites that "[t]he problem which the present invention sets out to solve is to reduce the cooling time of baked moisture-containing farinaceous foodstuff articles without on the one hand disintegrating the article, and on the other hand creating a water-denuded boundary layer in the article." Additionally, Bradshaw recites that "[I]t has also been found that the invention can be used to produce a completely baked moisture-containing farinaceous foodstuff article in a reduced time." (Bradshaw, col. 2, lines 26-34).

Further, Bradshaw teaches that the disclosed method "...differs from previous attempts

to obtain cooling by a reduced pressure treatment in that (i) the reduced pressure treatment is commenced as soon as possible after the article has left the oven, and without any deliberate pre-cooling period, and (ii) the reduced pressure is applied at a plurality of rates." (Bradshaw, col. 2, lines 51-56).

Applicant respectfully submits that of ordinary skill in the art could not reasonably be expected to look to a device and method for production of a completely baked moisture-containing farinaceous foodstuff article, which makes use of a reduced pressure technique, in which baked articles are submitted, at their baked temperature, and without deliberate pre-cooling, to a reduced pressure treatment, so that substantially, the entire effective cooling process takes place during said reduced pressure treatment, and the reduced pressure is applied at a plurality of rates, for a solution to a users cooking and eating convenience, namely, having to move food from and to a refrigerator before and after cooking in a separate device, and having to wait for a long time in the case of food requiring a long time to cook.

Accordingly, Applicant respectfully submits that Bradshaw is non-analogous art.

Regarding independent claims 6 and 11, the Examiner asserted that Filipowski discloses that "...the cold storage mode is re-activated if food is determined to be present in the cooking cavity, after a predetermined period has elapsed after the cooking mode." Applicant respectfully disagrees.

Independent claim 6 recites: "...determining whether cooked food is present in a cooking cavity after a cooking mode has been completed and a first predetermined period has elapsed; and decreasing a temperature of the cooking cavity by creating a vacuum state in the cooking cavity when the cooked food is present in the cooking cavity after the predetermined period has elapsed...."

And amended, independent claim 11 recites: "...determining whether cooked food is present in the cooking cavity after the cooking mode has been completed and a second predetermined period has elapsed; and decreasing the temperature of the cooking cavity by creating the vacuum state in the cooking cavity when the cooked food is present in the cooking cavity after the cooking mode has been completed and a second predetermined period has elapsed, thus performing a second cold storage mode to store the cooked food at a second predetermined temperature."

In contrast, Filipowski teaches that "at the end of the cooking phase the oven (microwave and convection) and refrigerator are turned off and the appliance 10 is plac[e]d in the 30 minute "Hold" phase. However, in the event that the oven cabinet door 24 (FIG. 2) is not opened at the

end of the 30 minute "Hold" period, as determined by a sensor 24S (FIG. 1) in the cabinet 25, the refrigerator 14 is again activated and subsequently deactivated when the door is subsequently opened." (Filipowski, col. 8, lines 60-68).

In other words, the device in Filipowski merely determines whether the door has been opened. Thus, if after cooking, the door is opened and only a portion of cooked food is removed, the device in Filipowski will not refrigerate the remaining portion of the cooked food.

Accordingly, Applicant respectfully submits that neither Filipowski nor Dean, either alone or in combination, discloses or suggests determining whether cooked food is present in a cooking cavity after a cooking mode has been completed and a first predetermined period has elapsed.

Applicant respectfully submits that independent claims 1, 6, 11, and 18 patentably distinguishes over the cited art, and should be allowable for at least the above-mentioned reasons. Further, Applicant respectfully submits that claims 3-5, 7-10, 12-16, 19-21, 23, and 24, which ultimately depend from one of independent claims 1, 6, 11, or 18, should be allowable for at least the same reasons as claims 1, 6, 11, and 18, as well as for the additional features recited therein.

NEW CLAIMS:

Applicant respectfully submits that for at least similar reasons as those stated in the section regarding the rejection under 35 U.S.C. §103, new claims 25 and 26 patentably distinguish over the cited art and should be allowable.

CONCLUSION:

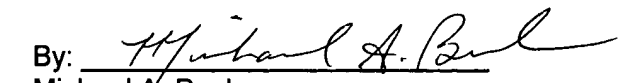
In accordance with the foregoing, Applicant respectfully submits that all outstanding objections and rejections have been overcome and/or rendered moot, and further, that all pending claims patentably distinguish over the cited art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,
STAAS & HALSEY LLP

Date May 3, 2005

By: 
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